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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,997	04/15/2004	Jerry Joseph	RESEM.P-003	7274
28752	7590	08/17/2005	EXAMINER	
LACKENBACH SIEGEL, LLP LACKENBACH SIEGEL BUILDING 1 CHASE ROAD SCARSDALE, NY 10583			RODRIGUEZ, PAMELA	
			ART UNIT	PAPER NUMBER
			3683	

DATE MAILED: 08/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/824,997

Applicant(s)

JOSEPH, JERRY

Examiner

Pam Rodriguez

Art Unit

3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 July 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: element numeral 21 shown in Figure 1. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

2. The abstract of the disclosure is objected to because in line 2, a comma should be inserted after the word "embodiments" and the period should be removed, then the word "An" should be in lowercase so that the description is grammatically correct. Correction is required. See MPEP § 608.01(b).

3. The disclosure is objected to because of the following informalities: on page 2 line 11 the phrase "with an incorrect" is not in proper English, on page 3 line 15 the word "includes" should read --including--, on page 4 line 20, on page 5 line 22, on page 6 line 14, and on page 7 line 12, the first occurrence of the words "the" should be deleted, and on page 12 lines 19 and 20 and on page 13 lines 2-6 and 12, the numeral "4" should read --2--to be consistent with the drawings and the previous lines of the specification referencing the bracket .

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

4. Claims 14-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 14 recites the limitation "said ridge member" in line 5. There is insufficient antecedent basis for this limitation in the claim.

Claims 15-16 are rejected merely due to their dependency from Claim 14.

Claim 17 recites the limitation "said outer seal members" in line 13. There is insufficient antecedent basis for this limitation in the claim.

Claim 18 recites the limitation "said ridge member" in line 5. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-14 and 17-20 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,169,244 to Siebert et al.

Regarding Claim 1, Siebert et al disclose a bushing member 19 (see Figure 2), having all the features of the instant invention including: an elastomeric member 3/4 defining a central opening 10 between a front face and a rear face; a slot 7 in said bushing along a first side of said elastomeric member providing a lateral access from an exterior of said elastomer member to said central opening (see Figure 2); hinge means 5 for reducing an opening force of said elastomeric member and for easing said lateral access to said central opening; and at least a part of said hinge means 5 for reducing positioned proximate a second side of said elastomeric member distal said slot 7 (see Figure 2), whereby during an opening of said bushing member said hinge means reduces an opening force required for separating said slot and inserting an external member into said central opening and improves a smooth transfer of said external member into said slot (see column 3 lines 5-20).

Regarding Claim 2, Siebert et al disclose an outer seal member 9 on each respective said front and rear face; and each said outer seal members 9 bounding said central opening 10 and joining respective sides of said slot 7 to provide a seal with said

external member (see Figure 4), whereby when said external member is assembled with said bushing member each said outer seal member 9 provides a sealing contact with said external member and minimizes a debris entry to said central opening (see Figure 4).

Regarding Claim 3, Siebert et al disclose at least a first and a second flange member 3/8 and 4/8 extending outwardly from an outer edge portion of said elastomeric member ¾ proximate respective said front face and said rear face (see Figure 2).

Regarding Claim 4, Siebert et al disclose that the first and said second flange members 3/8 and 4/8 define respective hinge portions 5 proximate said second side wherein a thickness of respective said flange members is reduced (see Figure 2), said hinge means 5 for reducing includes said respective hinge portions; and said hinge portions minimizing said opening force of said elastomeric member ¾ and easing said lateral access to said central opening 10 during an insertion of said external member, whereby an opening stress on said bushing member is minimized and a risk of damaging said bushing member is reduced.

Regarding Claim 5, see Claims 1 and 2 above.

Regarding Claim 6, see Claim 3 and Figure 2.

Regarding Claim 7, see Claim 4.

Regarding Claim 8, see Claims 1-3.

Regarding Claim 9, see Claim 4.

Regarding Claim 10, see Claim 1 above and further note bracket member 14 (see Figure 5) bounding a portion of the elastomeric member ¾, whereby when

assembled the bracket member is shaped to slide over a saddle portion of the elastomeric member (see Figure 5 and the portion of the elastomeric member  $\frac{3}{4}$  which bracket member 14 is located thereon).

Regarding Claim 11, see Claim 3.

Regarding Claim 12, see Claim 4.

Regarding Claim 13, see Claim 2.

Regarding Claim 14, Siebert et al further disclose means 17 for positioning and stiffening the bracket member 14, a first and a second edge member in the means for positioning (see Figure 7 and the edges of elements 17), and wherein the first and second edge members extend away from an outer portion of "the elastomeric member"  $\frac{3}{4}$  (see Figure 5), [note: applicant has claimed a "ridge member" here but has provided no antecedent basis for this term, as indicated in the 112 second paragraph rejection above. However, since the examiner is unsure what portion of the figures constitutes the "ridge member" the examiner has assumed that applicant is referring to the elastomeric member here and the claim has been treated as such), whereby the edge members provide at least a guiding alignment to the elastomeric member during an assembly (see column 4 lines 1-9).

Regarding Claim 17, see Claims 1-3 and 10.

Regarding Claim 18, see Claim 14.

Regarding Claim 19, see Claims 1-3 and 10.

Regarding Claim 20, Siebert et al disclose the step of compressing the elastomeric member  $\frac{3}{4}$  sufficiently to press closed the slot 7 and provide a leak resistant

Art Unit: 3683

seal along at least the slot thereby minimizing moisture access to the external member (note that bracket 14 would compress member ¾ to lock slot 7 closed, thus providing some sort of sealing function at the slot itself).

### ***Allowable Subject Matter***

7. Claims 15 and 16 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 6,513,801 to McCarthy, U.S. Patent No. 5,520,465 to Kammel, U.S. Patent no. 5,865,429 to Gautheron, and U.S. Patent No. 5,437,439 to Brokamp et al all disclose bushing assemblies having slot and hinge structures similar to applicant's.

U.S. Patent No. 5,743,987 to Tang et al, U.S. Patent No. 5,565,251 to Tang et al., U.S. Patent No. 3,448,994 to King et al., U.S. Patent No. 6,889,988 to Cai et al, and Derwent document no. 1999-369376 to Moon all disclose bushing and bracket assemblies similar to applicant's.

U.S. Patent No. 5,352,055 to Hellon et al disclose a bushing assembly appearing to have compression and strength members on its outer face.



Art Unit: 3683

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pam Rodriguez whose telephone number is 571-272-7122. The examiner can normally be reached on Mondays 5 am -3:30 pm and Tuesdays 5 am -11 am.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chuck Marmor can be reached on 571-272-7095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Pam Rodriguez  
Primary Examiner  
Art Unit 3683

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